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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,771	09/07/2004	Kazuyuki Miyazawa	TOS-158-USA-PCT	3569
27955	7590	06/26/2007		
TOWNSEND & BANTA c/o PORTFOLIO IP PO BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER BLAND, LAYLA D	
			ART UNIT	PAPER NUMBER
			1609	
			MAIL DATE	DELIVERY MODE
			06/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/506,771	MIYAZAWA ET AL.	
	Examiner	Art Unit	
	Layla Bland	1609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/21/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application is a national stage entry of International Application PCT/JP03/04430, filed April 8, 2003, and claims priority to Japanese Application No. 2002106356, filed April 9, 2002. Applicant's election without traverse of Group I, Claims 1 and 2, dated June 1, 2007, is acknowledged. Claim 3 is withdrawn from consideration as being drawn to a non-elected invention. Claims 1 and 2 are examined on the merits herein.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is drawn to a polysaccharide having a phosphorylcholine group represented by formula (1). The claim does not indicate a point of attachment to either formula (1) or the polysaccharide. The claim is interpreted to encompass any point of attachment.

Claim 2 is drawn to a polysaccharide having a phosphorylcholine group represented by general formulas (2)-(10). It is unclear whether the claim is intended to be drawn to a polysaccharide having one phosphorylcholine group selected from (2)-(10), or more than one, or all of (2)-(10). The claim is interpreted to mean a polysaccharide having a phosphorylcholine group

represented by one of (2)-(10). The claim does not indicate a specific point of attachment to the polysaccharide and is interpreted to mean any point of attachment.

Claim 2 recites that in formulas (2)-(7), m denotes an integer 1-20. Formulae 2, 5, 6 and 7 do not contain a variable m. Claim 2 recites that in formulas (8)-(10), R1, R2, and R5 denote O, NH, or a tertiary amine. Formulae (8) and (9) do not contain variables R1, R2, and R5. Unless variables are intended to have different meanings in different formulae, it is unnecessary to include a reference to a specific formula, especially if the formula does not contain the recited variable.

Claim Rejections - 35 USC § 102

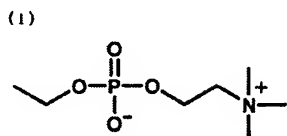
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

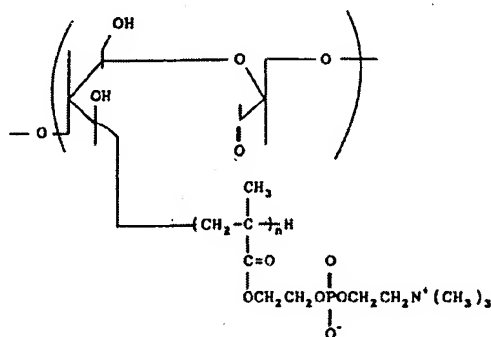
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nakabayashi et al. (EP 0580871A1, February 2, 1994, PTO-1449 March 21, 2007).

Claim 1 is drawn to a polysaccharide having a phosphorylcholine group represented by formula (1), shown below.



Nakabayashi et al. teach a water-soluble cellulose derivative of the following structural formula which contains the group represented by formula (1) [page 4]:



Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fukui et al. (JP 10-237102, September 8, 1998).

Fukui et al. teach a copolymer including cellulose and a phosphorylcholine radical [0010]. Cellulose derivatives useful for the invention include methyl cellulose and others [0011]. Phosphorylcholine radicals include 2-methacryloyloxy ethoxyethyl phosphorylcholine and others [0012].

Allowable Subject Matter

Claim 2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Art Unit: 1609

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Layla Bland whose telephone number is (571) 272-9572. The examiner can normally be reached on M-R 8:00AM-5:00PM UST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571) 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ldb



JANET L. ANDRES
SUPERVISORY PATENT EXAMINER

